

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DENNIS TOMOSON,

Petitioner,

v.

RICHARD MORGAN, ELDON VAIL,
ANNE ADAMS, MARGE LITRELL,
and ROBERT PIVER,

Respondents.

NO. CV-05-0112-MWL

ORDER ADOPTING REPORT AND
RECOMMENDATION

Magistrate Judge Leavitt filed a Report and Recommendation on November 4, 2005, recommending that Plaintiff's Fifth and Fourteenth Amendment claims, alleging violations of the Due Process Clause and the Equal Protection Clause, should be dismissed from this action. (Ct. Rec. 52).

On November 16, 2005, Plaintiff filed timely objections to the Report and Recommendation. (Ct. Rec. 58). Plaintiff's objection provides allegations of "rampant abuse within WDOC under their infraction system and its implimation [sic]." (Ct. Rec. 58, p. 4). Plaintiff's "additional evidence" consists of examples of other inmates and their disciplinary experiences, Plaintiff's perception of Superintendent Richard Morgan's "'Shoot to Kill' policy," and Plaintiff's interaction with staff following his request for the

1 disclosure of information. However, Plaintiff's objections do not
2 specifically address the analysis set forth in the November 4, 2005,
3 report and recommendation. Rather, Plaintiff's objection provides
4 examples of alleged WDOC staff abuse.

5 Plaintiff's allegations do not support the existence of a
6 liberty interest in remaining free from segregation; therefore,
7 Plaintiff fails to state a claim for relief under section 1983 for
8 deprivation of procedural due process stemming from his placement in
9 segregation. In addition, Plaintiff was notified of the reasons for
10 his placement in segregation, a disciplinary hearing was held, and
11 the hearing took place only 11 days following his placement in
12 segregation. Accordingly, Plaintiff received all of the due process
13 he may have been entitled to under federal law. Plaintiff's
14 complaint further contains no allegations demonstrating that he was
15 intentionally discriminated against or that he was a part of any
16 suspect class. Plaintiff has thus not alleged facts that give rise
17 to a claim for relief under section 1983 for denial of equal
18 protection.

19 Having reviewed the Report and Recommendation (Ct. Rec. 52) and
20 Plaintiff's objections to the Report and Recommendation (Ct. Rec.
21 58), said Report and Recommendation is **ADOPTED** in its entirety.

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DATED this 20th day of December, 2005.

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